CHILD LABOR LEGISLATION

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It is most desirable that the present widespread agitation for child labor legislation may achieve permanent results of a uniform character. Such laws as now exist are alike in no two states; they are enforced differently when they are enforced at all; they are uniform only in their failure to afford adequate protection to the rising generation of the working-class.

It is the aim of this paper to set forth some essential points of an effective child labor law efficiently enforced; for whatever the local differences of industrial conditions may be, certain fundamental needs of childhood are constant and child labor legislation must ultimately be framed with regard to these.

This fact is somewhat recognized in the statutes already enacted; for all these begin with a restriction upon the age at which ths child may begin to work. This minimal age has varied from ten years to fifteen, differing in some states for boys and for girls, while the statutes prescribing it have been weakened in some states by exemptions and strengthened in others by educational requirements. The fundamental provision of all child labor legislation has always been the prohibition of work before a specified birthday.

Akin to the restriction of the age of employment is the restriction of the hours of work. The former secures to the child a fixed modicum of childhood; the latter assures to the adolescent certain leisure, all too little, for growth and development.

No one law can be selected as containing all the provisions needed or even as containing all the provisions now in force. It is not possible to say to students of the subject, "The law of Massachusetts should be copied everywhere," for the laws of Ohio and Illinois contain single provisions in advance of that of Massachusetts.

Among the best child labor laws in the United States are those of Illinois and Indiana, which are almost identical. In Illinois no child under the age of fourteen years can be legally

employed in any mine, manufacturing establishment, factory or workshop, mercantile institution, store, office, or laundry. The Indiana law adds, to the foregoing list, renovating works, bakeries and printing offices. This prohibition is absolute throughout the year, admitting no exemptions or exceptions. Herein lies the superiority of these laws. Under the New York law, children at work in stores are exempt from restrictions during half of December—from December 15 to December 31—and also during the vacations of the public schools, when they may be employed from the age of thirteen years everywhere outside of the factories, which happily they may not enter before the fourteenth birthday. This exemption in New York has been given such elastic construction that children have been employed on Saturdays and even on school-days out of school-hours.

The laws of Illinois and Indiana are humane; they set the highest age limit without exemptions yet attained; they are equitable since they place mine owners, manufacturers and merchants in the same position in relation to this particular source of cheap labor. The employment of children under fourteen years of age is prohibited to all three sets of employers alike.

Treating these laws as standard or normal, for purposes of comparison, the law of Pennsylvania, for instance, is seen to fall below, because under it children may work in certain mines at twelve years and in factories at thirteen years of age; while lowest in the scale among all the Northern and Middle states stands New Jersey, whose child labor law permits boys to work at twelve and exempts all children, on grounds of poverty, at discretion of the factory inspectors.

Exemptions.

From the foregoing brief statement it is clear that the subject of exemptions is a varied and complicated one. The most insidious form of exemption, and therefore perhaps the most dangerous, is that prescribed in the law of Wisconsin. Under it, no child may be employed under the age of fourteen years in manufacture or commerce, unless it is exempted on grounds of poverty by a judge of a local court. In practice, a judge has no time to investigate the economic condition of hundreds of families; hence he follows the recommendation of the deputy factory inspector. This over-

worked officer is drawn away from his proper duties to perform an economic investigation for which he possesses no especial fitness. His own work suffers. Children are exempted from school attendance and permitted to work, who more than any other children in the community need education because of the poverty or shiftlessness of their parents. Too often, drunken fathers are encouraged to further drunkenness because their young children, under exemption, are earning money which the parents spend. Finally, this exemption rests upon the pernicious principle that a young child under fourteen years of age may be burdened with the support of itself or its family.

It is not a legitimate function of the judiciary to investigate the poverty of individual families. It is not a legitimate function of the factory inspectors to investigate family life. Both officers are interrupted in the performance of their legitimate duties by every attempt to perform this alien task. Moreover, children under fourteen years of age are undesirable additions to the body of wage-earners, pressing by their competition upon the wages of their seniors and therefore tending to produce in other families the same poverty which serves as a pretext for their own exemption. The number of exempted children, under such a provision, tends to increase continuously, because greedy and pauperized parents are tempted to follow the example of the really needy, in urging applications for exemptions.

Reinforcements.

Besides being free from all the undermining effects of exemption clauses, the child labor laws of Illinois and Indiana profit by several reinforcing clauses. Chief among these is the requirement that children under sixteen years and over fourteen years must keep on file in the office of the place of employment an affidavit of the parent or guardian, stating the date and place of birth of the child. In Indiana, this must state also that the child can read and write the English language. While some parents are undoubtedly guilty of perjury, and others carelessly take the oath perfunctorily administered by a notary public, thousands of honest people are deterred by the requirement of the affidavit from sending their children to work before reaching the fourteenth birthday.

Employers must produce, on demand of factory inspectors, affidavits for all children under sixteen years of age in their employ. The penalty prescribed for failure to do this is the same as for employing a child under the age of fourteen years. The value of this provision for the protection of the children depends wholly upon the policy of the inspectors. If every failure to produce the affidavit is followed by immediate prosecution, manufacturers become extremely cautious about employing young children; children under fourteen years of age virtually cease to be employed; and the number of those employed under sixteen years of age diminishes because many employers refuse to be troubled with affidavits, inspections and prosecutions. On the other hand, employers of large numbers of children find it profitable to make one clerk responsible for the presence in the office of an affidavit for every child between the ages of fourteen and sixteen years. In these cases, the children who have affidavits acquire a slight added value, are somewhat less likely to be dismissed for trifling reasons, and become somewhat more stable in their employment.

Where, however, inspectors fear to prosecute systematically, lest they be removed from office, the provision requiring an affidavit to be produced by the employer, on demand of an inspector, is not rigorously enforced; children soon come to be employed upon their verbal assurance that they are fourteen years of age, and the protection which might be derived from this very useful reinforcing clause is lost for the children under fourteen years of age, as well as for the older ones.

A farther reinforcement of the prohibition of employment of children under fourteen years of age is the authority conferred by the Illinois law upon inspectors to demand a certificate of physical fitness for children who may seem unfit for their work. This provision enforced with energy and discretion can be made, in the case of children conspicuously undersized, largely to counteract the tendency to perjury on the part of parents, besides relieving healthy children from overstrain of many kinds. The difficulties encountered are chiefly two:—physicians grant certificates without visiting the place of employment. This occurs quite uniformly to the disgrace of the profession. Physicians also grant certificates, in many cases, without careful examination of eyes, heart, lungs and spinal column of the child, simply upon the parent's statement of pov-

erty. To make this reinforcement thoroughly effective, every factory inspection staff should include a physician, preferably two, a man and a woman, appointed expressly to follow up the children and the conditions under which they work.

Educational Tests.

Several states require that children under sixteen years of age must be able to read and write simple sentences in the English language before being employed. This is of the highest value in those states which receive large streams of immigration from Europe. In New York, every year, numbers of children are dismissed from factories by order of factory inspectors, because the children cannot read; while in Massachusetts, French Canadian children find school attendance at a high premium because of the difficulty of securing employment without it. The influence of the foreign voting constituency has defeated in several states, for several years past, the effort to secure a statutory requirement of ability to read and write English, or a specified attendance at school, as a prerequisite for work on the part of children under sixteen years of age. This is conspicuously true of Illinois, where such a provision was defeated in the legislatures of 1893, 1895 and 1897.

The most powerful reinforcement of the child labor law is a compulsory school attendance law effectively enforced. For want of this, the child labor law of Illinois suffers severely. The school attendance law requires children between the ages of eight and fourteen years to attend school sixteen weeks, of which twelve must be consecutive. Children under ten years of age must enter school in September, children under twelve years must enter school not later than New Year's. Meagre as these provisions are, they are not uniformly and effectively enforced by the local school boards; and the state factory inspectors are therefore burdened with frequent prosecutions of employers because children under fourteen years of age are sent to work by parents who should be rigorously prosecuted by the school attendance officers.

In Indiana, the reinforcement afforded by the state truancy law is of great value, for children must attend school to the age of fourteen years, throughout the term of the school district in which

they live, generous provision being made for truant officers. This difference accounts, perhaps, for the fact that Indiana has but three and one-half thousand children under the age of sixteen years at work, compared with nineteen thousand such children in Illinois; and this despite the rapid development of the "Gas Belt" in Indiana, where the temptation is very great for parents to put excessively young children to work with the help of perjured affidavits. Truant officers, watching young children, from the eighth to the fourteenth birthday, every day of the school term, are the best preventive alike of perjury by parents and of child labor. They constitute the best possible reinforcement of the child labor law.

The contrasted practice of the neighboring states of Indiana and Illinois, in this respect, is so marked that, unless the policy of Illinois be radically changed in the near future, it is reasonable to expect that, despite the excellent child labor law, the number of children at work under the age of sixteen years must continue to double at intervals of five years, as it has done in the past—the recruits being largely drawn from the ranks of the children under the legal age for work.

In Boston, the very enlightened firm of merchants known as Filene's have long made it a rule to employ no person who is not a graduate of the grammar grades of the public schools. In two cases known to the writer, girls aged respectively eighteen and sixteen years applied for work, but were not engaged because they had not completed the school requirement. They found employment elsewhere while attending the graded evening schools of Boston in preparation for service at Filene's. It is reasonable to expect that this method of securing efficient help will be increasingly followed by public-spirited employers interested in placing a premium upon school attendance, until at last legislators may feel justified in specifying some one grade of the schools below which the pupil may not leave to begin working.

The Hours of Labor.

Among the most advanced restrictions upon the hours of labor of children is that of New Jersey, which prohibits all persons, men, women and children, alike, from working in manufacturing establishments longer than fifty-five (55) hours in any week, or after one

o'clock on Saturday. This provision applies throughout the year. Massachusetts and Rhode Island prohibit the employment of women of any age and of youths under eighteen years, longer than fifty-eight hours in any week, or ten hours in one day, or after nine at night or before six in the morning.

These laws have the advantage of precision. They require that the hours of work of the persons concerned must be posted conspicuously, and that the posted hours shall constitute the working day—work beyond the posted hours constituting a violation of the law—thus rendering the enforcement of the law simple and easy.

The statute of Utah prohibits all persons from working in mines, smelters and factories longer than eight hours in one day and forty-eight hours in one week. This statute has been sustained by the Supreme Court at Washington, in the decision in the case of Holden *vs.* Hardy, 1896. It does not, at present, affect any considerable number of children, because child labor hardly exists in Utah. But with the development of manufacture, now proceeding with startling rapidity, the value of this enlightened law for the children who must inevitably find employment is quite beyond computation. And as a precedent for similar legislation elsewhere, this statute and the extremely strong decision of the Supreme Court at Washington sustaining the validity of the statute are of epoch-making importance.

Night Work of Children.

The extent to which children are employed at night is not generally recognized. In any state in which such employment is not explicitly prohibited, it is very general in all branches of industry in which children are employed by day. Glassworks, nut and bolt works, tin can factories, furniture factories, cutleries, and scores of miscellaneous industries employ boys regularly at night. Girls are regularly employed in garment and candy factories during the busy season; and in some factories this work continues all through the year, as in the cotton mills of Georgia, Alabama and the Carolinas. Wherever the prohibition is not explicit and sweeping, the night work of children is the rule, not the exception. In Illinois and Indiana boys are not prohibited from working at night, and are

regularly employed in the glassworks in both states under circumstances of great hardship. In Indiana, girls are forbidden to work after ten o'clock; but Illinois, cruelly belated in this respect, merely restricts the work of children under sixteen years of age to sixty hours in any week, and ten hours in one day, failing to proscribe night work even for girls. It is, accordingly, very common. Even in Boston, where the hours of labor of boys under eighteen years engaged in manufacture and other forms of commerce are strictly limited, a recent attempt to pass an ordinance requiring that newsboys under fourteen years of age shall not sell papers on the streets after eight o'clock at night failed utterly, and small boys are to be seen upon the streets at all hours. The place of honor in the matter of legislation prohibiting night work for children properly belongs to Ohio, which provides that minors under eighteen years of age, may not be employed after seven o'clock at night.

Children Not Yet Protected.

Large numbers of working children remain wholly unprotected by legislation. Not only have the four great cotton-manufacturing states, Georgia, Alabama and the Carolinas, defeated all bills presented to their legislatures for the purpose of protecting young children, but in the North, also, newsboys, bootblacks, peddlers, vendors and the thousands of children employed in the tenement houses of New York and Chicago, and in the sweat-shops of Philadelphia, remain wholly outside of the law's protection, so far as statutory regulation of the conditions of their work is concerned. The problem of abolishing the overwork of school children in tenement houses, under the sweating system, appears at present insoluble except by a prohibition of all tenement-house work.

Enforcement.

To secure the enforcement of child-labor legislation, there are needed factory inspectors, both men and women, equipped with ample powers and supplied with adequate funds for traveling and other expenses. These inspectors need good general education, long experience, and vigorous public opinion reinforcing their efforts. Massachusetts enjoys the unique distinction, among the

American states, of possessing a large staff of factory inspectors meeting all these requirements; and Massachusetts is, accordingly, the only state of which it may be confidently asserted that its child labor law is uniformly and effectively enforced at all times and in all its provisions. A faithful officer serving a full quarter-century at the head of the department, with subordinates equally assured of permanent tenure of office during good behavior, has been able fearlessly and intelligently to enforce the laws securing to the children of Massachusetts fourteen full years of childhood, with opportunity for school life, followed by safety of life, limb and health after entering upon the years of work.

In all the other states it is extremely difficult for an inspector who faithfully enforces the law to retain his position. The interests which oppose such legislation and object to its enforcement, are enormously powerful and are thoroughly organized. The people who procure the enactment of child labor laws are usually working people unacquainted with the technical details of the work of inspection; busy in the effort to earn their own living; not able to keep vigilant watch upon the work of the inspectors, the creation of whose office they achieve. Thus the officials are subjected to pressure in one direction only. If they are idly passive, they may be allowed to vegetate in office several years. If they are aggressively faithful to the oath of office, enforcing the law by prosecuting offenders against its provisions, the children who profit by this are unable to reward their benefactors; the working people who obtained the creation of the office have no arts of bringing pressure to bear effectively to reward faithfulness in public service by appointed officers; while the offending employers are amply able to punish what they decry as officious overactivity, if they do not go farther and charge persecution and blackmail. For these reasons it may almost be stated as a general proposition that the more lax the officer, the longer his term of office; and the history of the departments of factory inspection, the country over, sadly substantiates the statement.

The recent startling revelations of non-enforcement of the laws intended to protect young children from exhausting overwork in the glass factories in New Jersey merely intimate what will be found true in every state in which there is not a powerfully organized, compact body of public opinion alert to insist upon the retention

of competent officers, the removal of incompetent ones, and the uniform, consistent enforcement of all the provisions of the child labor laws.

To form in every state, among the purchasers of the products of manufacture, a body of alert, enlightened public opinion, keen to watch the officers to whom is entrusted the duty of enforcing child labor laws, rewarding with support and appreciation faithful officials and calling attention to derelictions from duty on the part of the mere politicians among them, this is an important part of the duty of the National Consumers' League.